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August 26, 1998

Mr. Bruce Halstead
USDI Fish and Wildlife Service
1125 16th Street, Room 209
Arcata, CA 95521-5582

003729

RE: PERMIT NUMBERS PRT-828950 AND 1157

Dear Mr. Halstead:

In my capacity as professional forestry consultant to Sierra Club-California, I have been reviewing the Pacific Lumber Company (PALCO) Habitat Conservation Plan. In the course of that review, an issue has arisen concerning the extent to which statements contained in the HCP text can be taken at face value. I draw your attention, for instance, to Volume I, page 64, section c.6:

"Tree sizes and quantity distribution will be retained as per Table 17. If replacement size classes must be used to obtain the stated size distributions, the replacement size class must come from higher size classes if such trees are available; provided, however, that the largest trees in the stand must be left and harvesting conducted in a manner that facilitates and expedites development of stand conditions stated in Table 17."

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The first sentence seems to be quite clear: the schedule of basal area retention by size class presented in Table 17 "will be retained" where it exists prior to harvest entry. As to the second sentence (which appears to address situation where pre-entry stand conditions do not comply with the retention schedule in Table 17), the operative principle is clearly stated to be that any harvest activity must "facilitate and expedite development of stand conditions stated in Table 17."

In the course of seeking clarification on the RMZ retention requirements presented in the HCP, I had the recent occasion to speak with Vickie Campbell of NMFS. During that conversation (8/17/98), she informed me that, contrary to the language quoted above, PALCO is now interpreting the size class-distributed retention schedule in Table 17 to be advisory goals rather than binding requirements. She informed me that PALCO is taking this new interpretation because it does not wish to be bound by the retention standards for the larger size classes stipulated in Table 17.

PALCO's apparent interpretation contravenes the plain English understanding of both the first and second sentences of page 64, section c.6. If their motivation is to harvest more large trees than otherwise allowed under the retention schedule,

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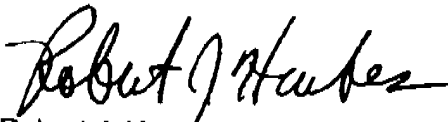
PALCO's harvesting will clearly not be "conducted in a manner that facilitates and expedites development of stand conditions stated in Table 17."

I am writing to you for the purpose of clarifying this apparent discrepancy between the face value meaning of HCP text and its apparent interpretation by PALCO. Does, in fact, PALCO now hold that Table 17 is merely advisory rather than a schedule of retention standards to which they must comply, as is the reasonable understanding to be gleaned from section c.6 on page 64? Is your agency aware of PALCO's interpretation and do you endorse it?

If, indeed, PALCO's interpretation of Table 17 is contrary to the plain English understanding of page 64, section c.6, I trust that you can appreciate the untenable position in which this places the concerned public, including but not limited to my client, Sierra Club-California. If the public cannot assume that the HCP means what it says, public review and meaningful comment on the HCP is made essentially impossible.

I look forward to your response.

Sincerely,



Robert J. Hrubes, Ph.D.
Consulting Registered Professional Forester #2228

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